

**REVIEW COPY**

**PROPOSED AIRBORNE TOXIC CONTROL MEASURE TO  
LIMIT COMMERCIAL HEAVY-DUTY DIESEL-FUELED  
VEHICLE IDLING**

**DRAFT**

# Preliminary

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## PROPOSED AIRBORNE TOXIC CONTROL MEASURE TO LIMIT COMMERCIAL HEAVY-DUTY DIESEL-FUELED VEHICLE IDLING

Adopt new Section xxxx within Chapter 10 – Mobile Source Operational Controls, Article 1 – Motor Vehicles, title 13, California Code of Regulations (CCR) to read as follows:

Section XXXX. Airborne Toxic Control Measure to Limit Commercial Heavy-Duty Diesel-Fueled Vehicle Idling.

- (a) **Purpose.** This airborne toxic control measure seeks to reduce public exposure to diesel particulate matter and other air contaminants by limiting the idling of commercial heavy-duty, diesel-fueled vehicles.
- (b) **Applicability.** This section applies to commercial heavy-duty, diesel-fueled vehicles with gross vehicular weight ratings of greater than 14,000 pounds that are or must be licensed for operation on highways.
- (c) **Requirements.**
- (1) **General:**
- (A) A driver of any subject vehicle shall not idle the primary diesel engine for greater than 5.0 minutes at any location, except as noted in Subsection (d).
- (B) The registered owner, lessee, licensee, or bailee of any subject vehicle must ensure that the vehicle driver is informed of the requirements in Subsection (c)(1) and of the consequences of not complying with this subsection.
- (2) **Sleeper Berths:** A driver of a truck equipped with a sleeper berth when operating a heater, air conditioner, or other ancillary equipment when used solely for sleeping or resting
- (A) Prior to December 31, 2009, may exceed the 5.0 minutes idling limit. However, where alternate means to idling are available and can be used by a driver of a truck (e.g. advanced truck stop electrification, auxiliary power units, truck stop electrification, or shore power), idling shall not exceed 5.0 minutes.
- (B) On or after December 31, 2009, shall not idle the primary diesel engine for greater than 5.0 minutes at any location.
- (3) **Commercial Bus:** [To be determined.]

- (d) **Exceptions.** The driver of a diesel-fueled vehicle may exceed the 5.0 minute per location limit in Subsection (c) under any of the following conditions:
- (1) when forced to remain motionless due to traffic conditions, an official traffic control device, or official traffic control signal over which the driver has no control, or at the direction of a peace officer; or
  - (2) when queuing in the normal course of conducting business over which the driver has no control; or
  - (3) when forced to remain motionless due to immediate adverse weather conditions affecting the safe operation of the vehicle or due to mechanical difficulties over which the driver has no control; or
  - (4) when verifying that the vehicle is in safe operating condition as required by law and that all equipment is in good working order, either as part of a daily vehicle inspection or as otherwise needed, provided that engine idling is mandatory for such verification; or
  - (5) for testing, servicing, repairing, or diagnostic purposes provided that engine idling is mandatory for such operations; or
  - (6) when providing a power source for mechanical operations, other than transporting passengers and other than propulsion, which involves a power take off (pto) or equivalent mechanism and is powered by the primary engine for:
    - (A) controlling cargo temperature, operating a lift, crane, pump, drill, hoist, mixer, or other auxiliary equipment,
    - (B) or providing mechanical extension to perform work functions for which the vehicle was designed and where substitute alternate means to idling are not reasonably available; or
  - (7) when operating defrosters, heaters, air conditioners, or other equipment solely to prevent a safety or health emergency.
- (e) **Relationship to Other Law.** Nothing in this section allows idling in excess of other applicable law, including, but not limited to:
- (1) California Vehicle Code Section 22515;
  - (2) Title 13, Section 2480, California Code of Regulations;
  - (3) California Health and Safety Code Section 40720; or
  - (4) any applicable ordinance, rule, or requirement as stringent as, or more stringent than this section.

- (f) **Enforcement.** This section may be enforced by the Air Resources Board, peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives, and air pollution control or air quality management districts.
- (g) **Penalties.** For violations of Subsection (c), the driver of a subject vehicle is liable for criminal penalties to the maximum extent provided by law and for a minimum civil penalty defined below:
- (1) For the first violation, 300 dollars (\$300.00).
  - (2) For each subsequent violation, 1,800 dollars (\$1,800.00).
- (h) **Definitions.**
- (1) "Commercial Vehicle" means any vehicle or combination of vehicles defined in California Vehicle Code Section 15210(b) and any other with a gross vehicular weight rating of greater than 14,000 pounds.
  - (2) "Diesel-Fueled" means fueled by diesel fuel in whole or part, where diesel fuel is any fuel that is commonly or commercially known, sold, or represented as diesel fuel including any mixture of primarily hydrocarbons – organic compounds consisting exclusively of the elements carbon and hydrogen – that is sold or presented as suitable for use in an internal combustion, compressed-ignition engine.
  - (3) "Driver" means any person who drives or is in actual physical control of a vehicle as defined in the California Vehicle Code Section 305.
  - (4) "Gross vehicle weight rating" means the weight specified by the manufacturer as the loaded weight of a single vehicle as defined in California Vehicle Code Section 350.
  - (5) "Heavy-Duty" means, for purposes of this regulation, any commercial diesel-fueled vehicle with a gross vehicular weight rating of greater than 14,000.
  - (6) "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel and includes streets as defined in California Vehicle Code Section 360.
  - (7) "Idling" means the vehicle engine is running at any location while the vehicle is stationary.

- (8) "Location" means any place in California where idling occurs, whether on or off a public highway.
- (9) "Official traffic control device" means any sign, signal, marking or device, consistent with California Vehicle Code Section 21400, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic, but does not include islands, curbs, traffic barriers, speed humps, speed bumps, or other roadway design features as defined in California Vehicle Code Section 440.
- (10) "Official traffic control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and proceed and which is erected by authority of a public body or official having jurisdiction as defined in California Vehicle Code Section 445.
- (11) "Primary diesel engine" means the diesel-fueled engine used for vehicle propulsion.
- (12) "Queuing" means the intermittent starting and stopping of a vehicle while the driver, in the normal course of doing business, is actively waiting to perform work or a necessary service when shutting the vehicle engine off would impede the progress of the queue and is not practicable. Queuing does not include the time a driver may wait motionless in line in anticipation of the start of or opening of a location where work or a necessary service will be performed.
- (13) "Safety or health emergency" means:
- (A) a sudden, urgent, or usually unforeseen, occurrence; or
  - (B) a foreseeable occurrence relative to a pre-disclosed medical or physiological condition.
- (14) "Sleeper berth" means a securely fixed area properly equipped for sleeping located in the cab or immediately adjacent to the cab in full compliance with 49CFRCh. III (10-1-02 Edition) section 393.77.
- (15) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks as defined in California Vehicle Code Section 670.

Authority Cited: Sections 39600, 39601, 39658, 39614 (b) (6) (A), 39667, 39674, 4300.5 (d), 43013 (b), 43013 (h), 43018 (b), and 43018 (c), Health and Safety Code; and *Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist.* (1975) [14 Cal.3d.411].

Reference: Sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, 42403.5, Health and Safety Code; Sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515, 27153, Vehicle Code; and Sections 1201, 1900, 1962, title 13, California Code of Regulations.

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